



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Internal
C0070013
OK

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January 12, 1990

TO: File

FROM: Pamela Grubaugh-Littig, Permit Supervisor *pgl*

RE: Chronology and Outline of Outstanding Ten Day Notices and Notices of Violation, Kaiser Coal Corporation, Horse Canyon Mine, ACT/007/013, Folder #2 and #4, Carbon County, Utah

There are several enforcement issues that are currently and simultaneously occurring. In order to avoid more confusion, this memo will outline each of the enforcement actions and deadlines that have been established for each.

ENFORCEMENT ACTION:

TDN X89-02-107-5-TV3

Inspection Date: July 26, 1989
Division Received TDN: August 15, 1989

Number 1 of 3 reads: "Failure to obtain a valid permit; on and after eight months from the date on which the regulatory program is approved by the Secretary, no person shall engage in or carry-out underground coal mining activities on non-federal or non-Indian lands within the State, unless that person has first obtained a valid permit issued by the Division under an approved regulatory program. Location: Horse Canyon Mine. Regulation cited: UMC 771.11."

Number 2 of 3 reads: "Failure to pursue a timely and complete application for a permit under the permanent regulatory program. Failure to conduct activities in compliance with the requirements of the Act, Subchapter B, 30 CFR, Chapter VII and state statutes and regulations. Location: Horse Canyon Mine. Regulation cited: UMC 771.13(b), (b)(1) and (b)(3)."

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Number 3 of 3 reads: "Failure to contemporaneously reclaim; reclamation efforts, including but not limited to backfilling and grading, topsoil replacement and revegetation, of all land that is disturbed by surface operations shall occur as contemporaneously as practicable within mining operations. Location: Horse Canyon Mine. Regulation cited: UMC 817.100."

Action:

1. Letter to Robert Hagen from Dianne R. Nielson dated August 25, 1989, requests withdrawal of TDN X89-02-107-5TV3.
2. Letter to Lowell P. Braxton from Robert Hagen dated August 30, 1989 withdraws TDN X89-02-107-5 and is replaced by TDN 89-02-107-6.

ENFORCEMENT ACTION:

TDN X89-02-107-6 TV2:

Division received TDN: September 5, 1989

Number 1 of 2 reads: "Failure to obtain a valid permit...no person shall engage in or carry out underground coal mining activities on non-federal or non-Indian lands within the State, unless that person has first obtained a valid permit issued by the Division under an approved program. Location: Horse Canyon Mine. Regulation cited: UMC 771.11."

Number 2 of 2 reads: "Failure to conduct underground coal mining activities in accordance with the requirements of the performance standards (the requirement to comply with the Permanent Program performance standards as stated in the Division's letter to Kaiser Coal Corporation dated April 29, 1986. Regulation cited: UMC 810.11.

The location is the Horse Canyon Mine, including but not limited to such things as:

- Failure to selectively place and seal acid-forming and toxic-forming materials. (Location: Exposed coal at the Woodard Canyon Portals; Regulation cited: UMC 817.41[vii]);

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- Failure to divert runoff away from disturbed areas, failure to divert runoff using protected channels or signs through disturbed areas so as not to cause additional erosion (Location: solid waste landfill; Regulation cited: UMC 817.45[d][e]);
- All surface drainage from the area above the coal processing waste and from the crest and face of the waste disposal area shall be in accordance with UMC 817.72(d). (Location: Road Junction Refuse excepting the pre-law parts of the refuse. Regulation cited: UMC 817.83)."

Action:

1. Letter to Robert Hagen from Dianne R. Nielson dated September 15, 1989 requests withdrawal of TDN 89-02-107-6-TV2.
2. Letter to Dianne R. Nielson from Robert Hagen dated October 3, 1989. OSM finds DOGM's September 15, 1989 TDN response to be inappropriate.
3. Letter to Robert Hagen from Dianne R. Nielson dated October 16, 1989 requests informal review of Albuquerque Field Office Director's determination that Division did take appropriate action or show good cause for inaction concerning TDN X89-02-107-6TV2 and an appeal of this finding.
4. Letter to Dianne R. Nielson from Hord Tipton dated November 29, 1989. Re: Response to October 16, 1989 DOGM request for informal review.

In this letter, Mr. Tipton affirms the determination of Albuquerque Field Office Director of first alleged violation. However, "before ordering a Federal inspection, I will grant your agency a 60-day period after receipt of this letter (December 4, 1989) in which to either secure from Kaiser revisions necessary to approve the operations and reclamation plan or order Kaiser in writing to initiate and complete reclamation in accordance with a reasonable and specified schedule."

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Mr. Tipton also affirmed the determination of the Albuquerque Field Office Director regarding the second alleged violation and ordered an immediate Federal inspection. This Federal inspection was conducted December 6, 1989 and December 8, 1989. As a result of this inspection, OSM issued Federal NOV 89-02-370-006, TV2 to Kaiser Coal Corporation.

ENFORCEMENT ACTION:

Federal NOV 89-02-370-006, TV2

Violation No. 1 of 2 reads: "Failure to provide a spillway or combination of spillways for a sedimentation pond. Location: the pond to the west of the entrance road, immediately before the railroad bridge. This bridge is labelled 64 on the map titled "Facilities Map Horse Canyon Mine (Plate II-1B)." Regulation cited: UMC 817.46(7)."

Corrective action required:

- (1) Submit designs that are in compliance with the UMC regulations pertaining to sedimentation ponds. Submittal of designs for approval (originally due January 12, 1990) has been modified to January 31, 1990 at 8:00 a.m. to the Division, and submit a copy to Albuquerque Field Office, Attention, Mitch Rollings; and
- (2) Diligently pursue approval of the required designs and complete reconstruction in accordance with the approved designs. Complete reconstruction must be completed by March 14, 1990, at 8:00 a.m.

Violation No. 2 of 2 reads: "Failure to properly construct sedimentation pond embankments. Location: There are five pond locations that this notice applies to - Ponds #1, #2, #4, #5 and #7. or Regulation cited: UMC 817.46(1)."

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Corrective action required:

- (1) Submit designs that are in compliance with the UMC regulations pertaining to sedimentation ponds for approval to the Division by January 31, 1990 at 8:00 a.m. and a copy to the Albuquerque Field Office, attention: Mitch Rollings.
- (2) Diligently pursue approval of the required designs and complete reconstruction in accordance with the approved designs. Complete reconstruction must be completed by March 14, 1990 at 8:00 a.m.

As a result of the December 6 and 8, 1989 inspection, the Division issued NOV N89-26-23-1.

ENFORCEMENT ACTION:

NOV N89-26-23-1

Number 1 of 2 reads: "Failure to pass some undisturbed drainage through a sediment pond or receive Division approval for an exemption of this requirement (UMC 817.42[a][1] and [a][3]). Ten areas were pointed out to John Palfy on December 12, 1989 by Bill Malencik. These areas must have alternative sediment control measurements installed by January 19, 1990 at 5:00 p.m.

The coarse road refuse and sanitary landfill area must have plans submitted for sediment pond or alternative sediment control measures. Approved plans must be implemented by March 17, 1990 at 5:00 p.m.

Number 2 of 2 reads: "Failure to minimize erosion to the extent possible on unprotected channels. UMC 817.45(iii) and (e) were cited. Three areas were pointed out to John Palfy on December 12, 1989 by Bill Malencik. The operator must repair erosion and provide channel protection. The runoff coming off the two rock tunnel road berms in lieu of the above may be directed into the road ditch. If this option is selected, the eroded channel will have to be repaired. The repairs must be completed by January 19, 1990 at 5:00 p.m.

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Summary

In conclusion, the updated submittal for the PAP must be submitted February 2, 1990 to determine the plan complete. State NOV N89-26-23-2 must have alternative sediment controls measures installed by January 19, 1990 for ten areas and the approved plan for sediment pond or alternative sediment control measures must be implemented by March 17, 1990. Additionally, the State NOV requires erosion measures to be completed by January 19, 1990. Federal NOV 89-02-370-006TV2 requires designs for sedimentation pond (spillway or combination of spillways) west of the entrance road immediately before railroad bridge to be submitted to Division by January 31, 1990 (copy to AF0). Reconstruction must be completed by March 14, 1990.

Designs for construction of sedimentation pond embankments for Ponds #1, #2, #4, #5 and #7 must be submitted to the Division by January 31, 1990 at 8:00 a.m. (copy to AF0). Reconstruction must be completed by March 14, 1990.

djh
cc: D. Nielson
L. Braxton
T. Munson
H. Sauer
AT45/125-129